

Report on the

# **POLYGRAPH EXAMINERS BOARD**

Montgomery, Alabama



## **Department of Examiners of Public Accounts**

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August 24, 2006

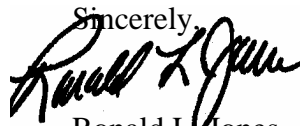
Representative Howard Sanderford  
Chairman, Sunset Committee  
Alabama State House  
Montgomery, AL 36130

Dear Representative Sanderford:

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Polygraph Examiners Board** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Polygraph Examiners Board** in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,  
  
Ronald L. Jones  
Chief Examiner



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# **PROFILE**

## **Purpose/Authority:**

### **Purpose**

- Polygraph examiners use specific instrumentation to test or question individuals for the purpose of detecting deception or verifying the truth of statements. The Polygraph Examiners Board licenses polygraph examiners and polygraph internship applicants. The board investigates complaints regarding licensees and has the authority to refuse, suspend, or revoke licenses. Enabling statutes set minimum instrumentation requirements for polygraph examinations.

### **Statutory Authority**

- *Code of Alabama 1975*, Sections 34-25-1 through 34-25-36

## **Board Characteristics**

### **Members**

- 5 Board Members (voting)
- 2 Advisory Consultants (non-voting)

### **Term**

- 4 Years
- No prohibition on serving consecutive terms
- No limit on number of terms

### **Selection**

- Appointed by the Governor with the advice and consent of the Senate

### **Qualifications**

- Citizen of the United States
- Resident of Alabama for at least two years prior to appointment
- Professional polygraph examiner four years prior to appointment
- Active polygraph examiner
- Three governmental polygraph examiners
- Two commercial polygraph examiners
- No board members may be employed by the same agency

### **Minority Race Representation**

- No statutory requirement
- 1 Minority race member

### **Geographical Representation**

- No statutory requirement

**Consumer Representation**

- No statutory requirement

**Compensation**

- \$100.00 per day
- Travel and per diem at state employee rate

**Operations****Administrator**

- Joan Beck, Administrative Secretary  
Appointed by the board subject to the rules of the State Personnel Department  
Part-time, hourly retired state employee  
Annual salary approximately \$2,000-\$3,000

**Location**

- 301 South Ripley Street  
Montgomery, AL 36102

**Types of Licenses**

- Polygraph examiner
- Polygraph intern

**Qualifications of Licensees**

- Applicants for licensure as a polygraph examiner must be:
  - (1) At least 21 old
  - (2) United States citizen
  - (3) Person of honesty, integrity and moral fitness;
  - (4) Not been convicted of a felony or a misdemeanor involving moral turpitude
  - (5) Baccalaureate degree from an accredited university or has five consecutive years of active investigative experience immediately preceding his application
  - (6) Graduate of an approved polygraph examiners' course and completed at least 6 months of internship training
  - (7) Passed an examination conducted by the board
- The applicant must furnish to the board evidence of a surety bond or insurance policy that may be recovered against the licensee by reason of any wrongful or illegal acts committed by him in the course of his examinations.

**Examinations**

- State Board Exam - Administered by Board Members
- Quarterly or as needed

<b>Schedule of Examination Results October 1, 2003 Through June 30, 2006</b>		
<b>SEGMENT</b>	<b>PASS</b>	<b>FAIL</b>
Chart Review	7	
Psychophysiological Aspects	9	2
Alabama Law and Rules & Regulations	9	
Miscellaneous Considerations	8	3
Practical Exercise	8	

**Licensees**

Licensees as of March 13, 2006

- 91 Polygraph Examiners
  - 3 Interns
- 94 total

**Reciprocity**

- A polygraph examiner licensed in another state may be issued a license at the board's discretion, provided the other state has licensure requirements similar to Alabama's

**Renewals**

- Annual

**Continuing Education**

- Mandatory - 12 credit hours annually for renewal

**Employees**

- 1 – Part-time retired state employee
- Prior to 12/31/2004, administrative duties were performed by an employee of the Department of Public Safety
- 0 - Minority Race Employees

**Legal Counsel**

- Statutory board consultant (Todd Wheelles) serves as the board's legal counsel.

**Subpoena Power**

- Yes – witnesses and documents

**Internet Presence**

- Web Site: [www.polygraph.alabama.gov](http://www.polygraph.alabama.gov)
  - Rules and Regulations
  - Consumer Information
  - Equipment
  - Board Members
  - Annual Renewal Forms
  - Approved Polygraph Schools
  - Upcoming Events

**Attended Board  
Member Training**

- Board Chairman
- Administrative Secretary



## **Financial**

<b>Fees</b>	<ul style="list-style-type: none"><li>• License</li></ul>
<b>State Treasury</b>	<ul style="list-style-type: none"><li>• Yes</li></ul>
<b>Unused Funds</b>	<ul style="list-style-type: none"><li>• Unused funds are retained by the board for future use.</li></ul>
<b>Source of Funds</b>	<ul style="list-style-type: none"><li>• Licensing fees</li></ul>

## **SIGNIFICANT ITEMS**

1. **Notices of board meetings were not posted to the Secretary of State's Internet web site as required by the Open Meetings Act.** Minutes of board meetings show that the board held meetings on January 1, 2006, February 21, 2006, March 28, 2006, and June 20, 2006. None of these meetings were posted to the Internet website created in the Office of the Secretary of State for that purpose. Posting to the website is mandatory under the state's Open Meetings Act.

### **Response**

The Board Secretary did post the meetings on the Secretary of State's Internet web site as required by the Open Meetings Act. She is unable to explain why your auditor, was unable to verify these postings. She has been instructed to contact the Secretary of State's Office and see what the problem is.

2. **Communication with the board is made difficult by the lack of availability of staff.** The board is currently staffed part-time by a retired state employee who is loosely scheduled to work half-days each Wednesday. At other times contact can be initiated only through e-mail and telephone voice mail. We experienced considerable difficulty in obtaining responses to our inquiries during this review. The board's office is located in the headquarters of the Department of Public Safety. Security measures in place at the Department of Public Safety headquarters make physical access to the board's offices difficult.

### **Response**

The Board's finances and office workload only allow for a part-time employee. The telephone voice mail system has a message reflecting the Board's hours and the secretary's home telephone number if the individual needs to talk to the secretary immediately. The secretary checks the voice mail at least twice daily and returns all calls. The Code of Alabama specifies that the Board be housed in the Department of Public Safety, therefore, the Board must abide by the security measures instituted by the Department of Public Safety. The Board Secretary informed your staff that she would be available anytime your auditor requested. No special requests were made and she met with the auditor on Wednesday afternoons.

3. **Use of Computerized Voice Stress Analyzers (CVSA) Criticized by Board and Licensees.** Minutes of board meetings and board member and licensee responses to questionnaires indicate that CVSA systems used by some Alabama law enforcement agencies in Alabama are unreliable and are in violation of the Alabama Polygraph Examiners Act.

Unlike a polygraph, which records a subject's cardiovascular pattern, respiratory pattern, and galvanic skin response, CVSA is based on the theory that inaudible tremors in the vocal cords determine the amount of stress affecting the speaker and that voice stress is linked to deception.

#### **Response**

The use of the Computerized Voice Stress Analyzers (CVSA) is an on going problem in the State of Alabama. The Board has met with the Attorney General's representative several times and has been unable to receive approval to institute proceeding against the law enforcement organizations that are using the instrument in Alabama in violation of the Code of Alabama.

4. **The board has created a temporary license by administrative rule that is not authorized by law.** Board rule 740-X-3-.08 provides for the issuance of a temporary license by the secretary of the board to applicants who have met the requirements for licensure, except for the actual approval of the applicant for licensure by the board at its next meeting. The board's enabling statutes make no provision for licensing anyone temporarily and require board approval for licenses. The *Code of Alabama 1975*, Section 34-25-20(a) provides that, "It shall be unlawful for any person, including a city, county or state employee, to administer polygraph examinations or attempt to hold himself out as a polygraph examiner without a license approved by the board and issued by the board." Various Attorney General's opinions have stated that administrative rules cannot conflict with the law or enlarge upon it.

#### **Response**

The Board does not have a "temporary license by administrative rule." The only license that was perhaps misunderstood by the Auditor could possibly be the Intern examiner's license. This license is issued to polygraph examiners who have just graduated from polygraph school. It is a six month license with the possibility of a six month extension if the Intern's sponsor feels it is needed. The intern polygraph examiner is assigned a seasoned polygraph examiner as his/her sponsor and works directly under the sponsor's control. The sponsor submits bimonthly reports to the Board on the Intern's progress. The intern license is issued after the Board Secretary checks to see that all of the necessary paperwork has been submitted and telephones the Board members for their approval to issue an intern license (if there is no regularly scheduled Board meeting within a month of the licensing request). The issuing of the intern license is confirmed at the regularly scheduled Board meeting.

## **STATUS OF PRIOR FINDINGS**

**General Response** The Polygraph Examiners Board was cognizant of the findings and recommendations that were presented in the previous Examiners of Public Accounts audit. Neither of the recommendations have been carried out as of this date [May 25, 2006] but will be implemented in the near future.

5. **Prior Finding: The Board of Polygraph Examiners does not have an approved Records Disposition Authority (RDA).** The board's retention of all records has resulted in a records storage problem. The *Code of Alabama 1975*, Section 41-13-21 provides for the State Records Commission to make a determination as to which state records to be preserved or destroyed and requires state officers not to cause the destruction of state records without prior approval of the commission. To implement this requirement, state agencies consult with the Department of Archives and History, Records Division to develop a plan of records disposition for approval by the State Records Commission.

We recommended that the board should contact the Records Division of the Department of Archives and History for consultation and development of an approved RDA. We notified the board of this discrepancy on November 9, 2004.

**Current Status** – The board continues not to have an approved records disposition authority. The Records Division of the Department of Archives and History was not contacted.

**Response:** The board recommended that Joann Beck, the board's administrative secretary, wait to contact the Records Division of the Department of Archives and History about the proper storage until the board had a permanent office. The board now has a permanent office and Ms. Beck will be contacting the proper authorities as soon as possible.

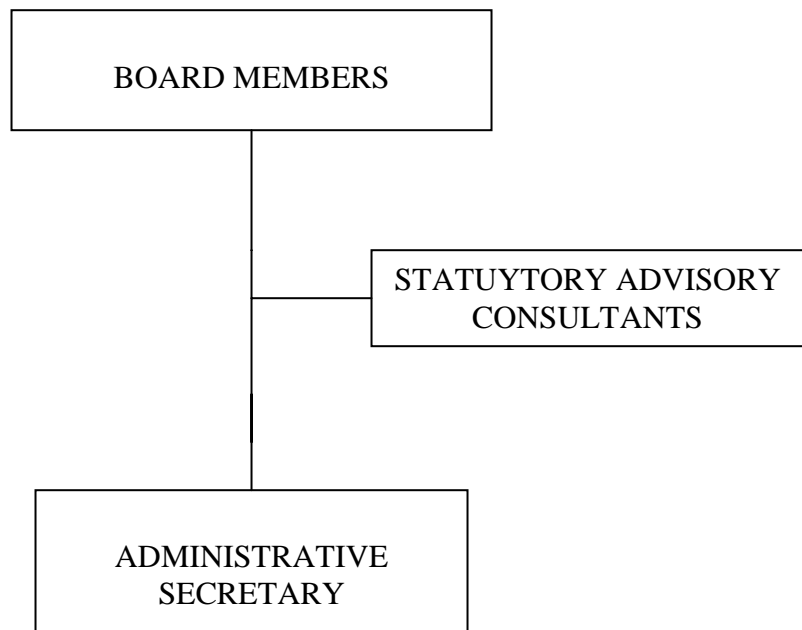
6. **Prior Finding: The board's administrative rules were not amended to reflect changes in the board's licensing law.** *Acts of Alabama*, Act No. 2003-61 amended the *Code of Alabama 1975*, Section 34-25-4 to provide diversity in the board membership and to increase the membership of the board from three to five members. The board's administrative rule 740-X-2.01 addresses board membership. The rule was not amended to include either the requirements for diversity or the increase in board membership. *Acts of Alabama*, Act No. 2003-61 also amended the *Code of Alabama 1975*, Section 34-25-29 to provide for a grace period and a penalty for late renewal of licenses. The board's administrative rule 740-X-3-.07 states that unless the board receives a renewal application and a renewal fee on or before September 30, the license shall expire [no grace period].

We recommended that the board should update its administrative rules to conform to the amendments to its licensing law provided in *Acts of Alabama*, Act No. 2003-61. We notified the board of this discrepancy on November 9, 2004.

**Current Status** – The rules have not been amended to conform to the board’s licensing law.

**Response:** The board’s administrative rules were not updated to reflect changes already made because the board has been trying to add further changes to the Code for the past three years. It was decided that it would be easier to implement all of the changes at one time.

## **ORGANIZATION**



## **PERSONNEL**

- The Polygraph Examiners Board currently employs one part-time, hourly, retired state employee who is loosely scheduled to work half days each Wednesday. Prior to December 31, 2004, the administrative functions of the board were performed by this same employee who was then a full-time, classified merit system employee of the Department of Public Safety (DPS). Her services to the board while an employee of the DPS were provided at no cost to the board.

Merit System Classification	Number of Employees	Race	Sex
11903 Retired State Employee	1	W	F

- Legal services are provided by one of the board's two statutory advisory consultants who is an attorney.

## **PERFORMANCE CHARACTERISTICS**

- **Number of Licensees Per Employee - 94**
- **Operating Disbursements per Licensee (Current FY) – \$118.46**

### **Number or Persons per Licensee in Alabama and Surrounding States**

	Population	Number of Licensees	Persons Per Licensee
Alabama	4,557,808	94	48,487
Florida	17,789,864	N/A**	N/A
Georgia	9,072,576	N/A**	N/A
Mississippi	2,921,088	53	55,115
Tennessee	5,962,959	44	135,522

\*\* Georgia and Florida do not have licensing boards for polygraph examiners.

- **Notification to Licensees of Board Decisions to Amend Administrative Rules**  
The board complies with the notification and hearing requirements of the Administrative Procedures Act.
- **Complaints:** According to staff, individuals wishing to file a complaint against a polygraph examiner should contact the board and ask for an official complaint form. When the form is returned to the board, the complaint will be reviewed by the board's complaint committee, and the necessary investigation will be initiated. The complaining individual will be kept apprised of the investigation and board's actions concerning the complaint.

Upon our request for complaint statistics, we were informed by staff that there had been no complaints. Our review of the minutes of board meetings revealed that the board had acted upon on two complaints. Both were resolved.

- **Investigations**

<b>Investigation Performed by</b>	Contract investigator
<b>Initial Documentation</b>	Phone call supplemented by formal written complaint on board provided form.
<b>Disposition of complaint if formal hearing not held</b>	If the results of the board's investigation do not require a formal hearing, the board votes for dismissal of the complaint.
<b>Anonymous complaints</b>	The board does not act on anonymous complaints
<b>Investigating board member's status at hearing</b>	Witness only

- **Jurisdiction over non-licensees** – The board has no specific authority over non-licensees. The board does have statutory authority to seek injunctions and other remedies by court order.
- **Overlap of Jurisdiction** – No jurisdictional overlap with other governmental agencies was noted as a result of this review.
- **Smart Budgeting** - The board has implemented a statewide strategic planning system as required by the Governor. The board has developed a Strategic Plan Summary that identifies the agency's mission, purpose, multi-year goals, a vision for the future and a level plan of how they will achieve the stated goals. The board has also submitted a Quarterly Performance Report that compares actual accomplishments to the accomplishments planned.

## **FINANCIAL INFORMATION**

The operations of the board are primarily financed through collections authorized by statute. The board operates through the State Treasury.

### **Schedule of Fees**

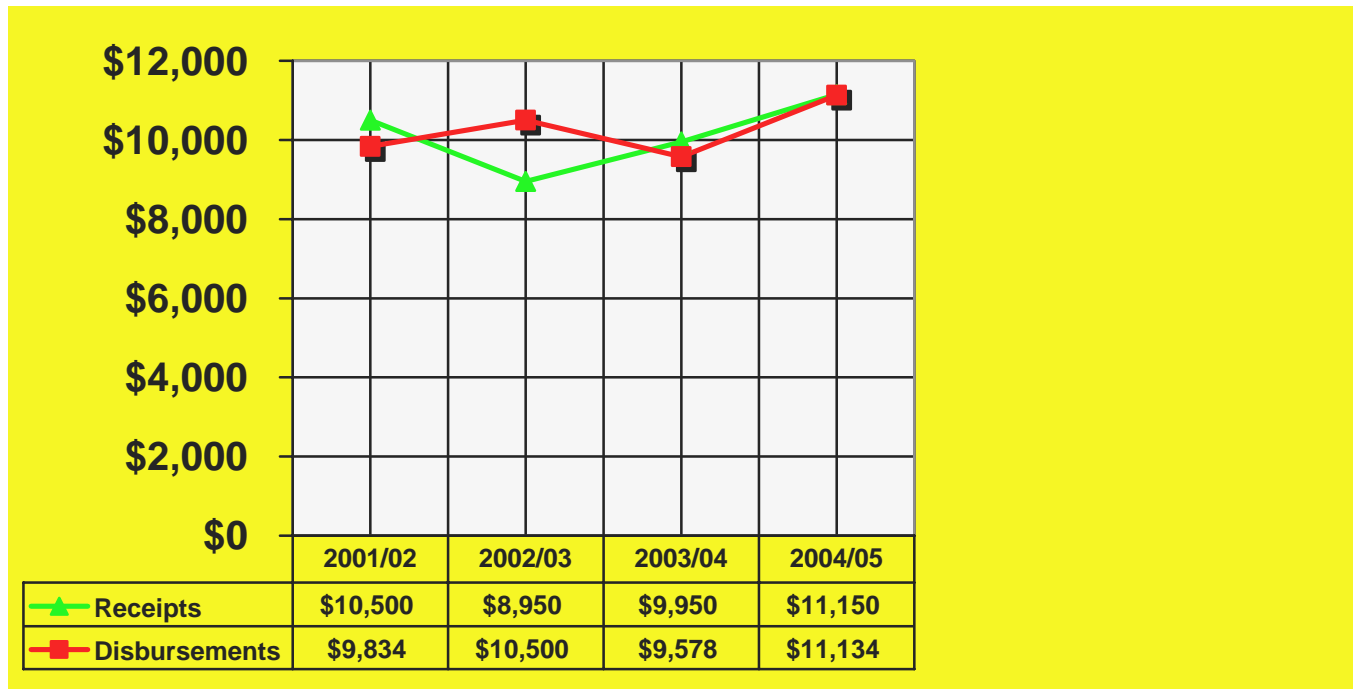
<b>Type</b>	<b>Amount Charged</b>	<b>Statutory Authority</b>	<b>Administrative Rule</b>
Investigation Fee	\$ 150.00	34-25-26 (1)	740-X-3-.02(b)
Polygraph Examiner License	\$ 100.00	34-25-26 (2)	
Polygraph Internship License	\$ 100.00	34-25-26 (3)	
Duplicate Polygraph Examiner License	\$ 20.00	34-25-26 (4)	
Duplicate Internship License	\$ 20.00	34-25-26 (7)	
Polygraph Examiner Renewal License	\$ 100.00	34-25-26 (5)	740-X-3-.07*
Internship Extension License	\$ 100.00	34-25-26 (6)	

\* Cites enabling statute

### **Schedule of Cash Receipts, Disbursements and Balances October 1, 2001 through September 30, 2005**

	<b>2004/2005</b>	<b>2003/2004</b>	<b>2002/2003</b>	<b>2001/2002</b>
<b><u>Receipts</u></b>				
Licensing Fees	\$ 11,150.00	\$ 9,950.00	\$ 8,950.00	\$ 10,500.00
<b><u>Disbursements</u></b>				
Personnel Costs	2,742.24	1,900.00	1,700.00	1,800.00
Employee Benefits	273.42	145.35	130.05	137.70
Travel In-State	1,179.02	805.82	1,419.00	1,512.46
Repairs and Maintenance	135.00	112.50		
Rentals and Leases	202.06	188.13	220.56	165.56
Utilities and Communications	368.88	183.77	242.52	170.46
Professional Services	5,650.54	5,479.96	5,994.11	5,295.09
Supplies, Materials, and Operating Expenses	583.30	762.91	793.56	752.93
Total Disbursements	11,134.46	9,578.44	10,499.80	9,834.20
Excess (Deficiency) of Receipts Over Disbursements	15.54	371.56	(1,549.80)	665.80
Cash Balance at Beginning of Year	53,331.69	52,960.13	54,509.93	53,844.13
Cash Balance at End of Year	53,347.23	53,331.69	52,960.13	54,509.93
Reserved for Year-End Obligations	(7,904.66)	(8,891.35)	(6,218.13)	(7,270.00)
Unobligated Cash Balance at Year-End	\$ 45,442.57	\$ 44,440.34	\$ 46,742.00	\$ 47,239.93

### Receipts vs. Operating Disbursements (Chart)





## **QUESTIONNAIRES**

### **Board Members**

**Questionnaires were sent to the four board members and one statutory advisory consultant who were currently serving. One board member position and one advisory consultant position were vacant. Three board members and the advisory consultant responded.**

1. What is the most significant issue currently facing the Polygraph Examiners Board?

- (1) Addressing complaints (2) Regulating CVSA (3) Licensing issues
- (1) Keeping anti-polygraph laws from being passed by the legislature. (2) Keeping voice-stress which is outlawed from departments.
- I just recently received my appointment and would rather speak with existing Board members prior to answering.
- The most significant issue facing the Polygraph Board is obtaining legislation which mandates Polygraph Applicants Criminal History Background checks. Applicants applying for a State Polygraph License are required to have a State and Federal Criminal History Background Check performed before a license is issued. The state checks are conducted by the Alabama Bureau of Investigation (ABI) and the federal checks by the Federal Bureau of Investigation (FBI). If the legislation is not passed, the FBI will no longer conduct federal checks for the Polygraph Board.

2. What is the board doing to settle this issue?

- (1) Conducting hearings in accordance with statutes. (2) Monitoring CVSA legislation. Educating A.G. on status. (3) Holding regular licensing sessions in accordance with rules.
- (1) Trying to get the Attorney General's Office to take action against departments using voice stress. (2) Try to stay on top of new bills that affect polygraph.
- I just recently received my appointment and would rather speak with existing Board members prior to answering.
- The legislation was passed in the house, but required several corrections before senate presentation. The corrections were made, but never presented in the senate by the sponsor. We will again attempt to have this corrected legislation sponsored and passed during the next regular session. [HB 183 sponsored by Rep. Ball]

3. Is the board adequately funded?

  3   Yes                        1   No

- At this time, however the Polygraph Board started paying the salary of the Board's Administrative Assistant.

4. What is the purpose of your fiscal year end fund balance?
- The Polygraph Board is not funded by the state. The only revenue produced is via self-sustaining licensing fees. Therefore, these revenue roll-over to the next fiscal year to fund operations.
  - To insure that we never go in the red.
  - I just recently received my appointment and would rather speak with existing Board members prior to answering.
  - The Polygraph Board is self supportive and at present requires no funding from the general fund. The year end balance is used to fund the Board's licensing requirements. The funds contributing to this balance is obtained from Polygraph License Fees.
5. What changes in Alabama laws regulating polygraph would you recommend?
- Just continue to outlaw any form of computer voice stress analysis (CVSA). Other states have fallen into allowing this form of detection of deception that is less than 50% accurate.
  - (1) Have it so FBI can conduct our background checks. (2) Have inactive license.
  - I would recommend enforcing the existing law against the use of voice stress analyzers as lie detection equipment.
  - Criminal History Background Checks.

**Licensees**

Questionnaires were sent to the 87 persons identified as licensed polygraph examiners, excluding board members. Responses were received from 68. Their responses are recorded as follows:

1. Do you think regulation of polygraph examiners by the board is necessary to protect public welfare?

66 Yes      1 No      1 Unknown             No Opinion

2. Do the laws, regulations, and policies regulating polygraph examiners in Alabama constitute any unnecessary restriction on the profession?

4 Yes      44 No             Unknown      20 No Opinion

- When it comes to retired examiners.

3. Are you satisfied with your dealings with the board?

65 Yes             No      1 Unknown      2 No Opinion

4. Are you adequately informed of changes to the rules and laws concerning polygraph examiners in Alabama?

61 Yes             No      4 Unknown      3 No Opinion

5. Did the board perform your licensing or renewal process in a timely manner?

68 Yes             No             No Opinion

6. Do you consider mandatory continuing education necessary to be a competent polygraph examiner?

65 Yes      3 No             Unknown             No Opinion

- If it subject matter relevant.
- Not so much for competency but for professionalism.
- Good but not necessary

## Licensee Questionnaire

7. Has the board approved sufficient providers of continuing education to ensure your reasonable access to required continuing education hours?

58 Yes      3 No      5 Unknown      2 No Opinion

- As far as I know the board has never said who could be provider of CEU's. The state association has a yearly conference.

8. What do you think are the most significant issues currently affecting polygraph examiners in Alabama?

- The use of the CVSA despite state law.
- Small # of examiners.
- Stopping CVSA from being used in Alabama.
- The illegal use of the voice stress analyzer in Alabama.
- Employment Polygraph Protection Act (EPPA)
- Employers not being advised of the current laws affecting polygraph use.
- I think training is the most important issue for any polygraph examiner. New techniques, methods and laws are ever changing.
- The use of CVSA. The???? of use in the monitoring of convicted sex offenders.
- Voice Stress Analyzers.
- The unscientifically proven voice stress analysis instruments, although prohibited by law, are being allowed by non-enforcement of this law.
- Licensing and the continuation of same.
- Continuing the licensing of examiners to protect the public from unqualified people.
- The state laws against use of voice stress equipment are not being enforced for the law enforcement agencies using illegal equipment.
- To continue to promote professionalism through strict licensing requirements and mandatory continuing education.
- Standardization
- The influx of voice stress analyzers which are illegal in many states. Scientific research indicates they have no reliability.
- Lack of available training in the region in order to obtain continuing education credits.
- 1. EPPA legislation of 1988. 2. CVSA computerized voice stress analysis.
- Addressing complaints, law enforcement using voice stress machines, continuing education
- Training (CEU's), professionalism, examining new technologies, retraining. Computerized Voice Stress Analysis (CVSA) – It is not accurate – Flipping a coin is probably more accurate.
- Continuing education
- The increased use of the Computerized Voice Stress Analyzer (CVSA). It's an unreliable instrument that's being permitted to continue.

## Licensee Questionnaire

- The use of the Voice Stress Analysis which research has shown to be no better than guessing is being used on job applicants & suspects by various departments.
- Accuracy & reliability
- Use of voice stress analysis for detection of deception.
- Legislative action requiring polygraph monitoring of convicted sex offenders.
- The illegal use of voice stress analyzers by police departments and other agencies.
- Illegal and always invalid voice stress analyzers being used in place of polygraph.
- Voice stress machines
- The illegal use of voice stress analysis. The device lacks the validity and reliability of polygraph.
- Private examiners doing sloppy work just to make money.
- The use of voice stress machine in Alabama. The use of them is against the law. There are several police agency that use them.
- Research dealing with the accuracy of CVSA
- Voice stress analyzers
- The unsanctioned and unregulated use of the computerized voice stress analyzer (CVSA)
- I feel that everything is fine as is.
- The push to have polygraph examination accepted in the state court system.
- The illegal use of voice stress analysis instruments by persons and law enforcement agencies in Alabama.
- The operation of voice stress for detecting of deception.
- Private examinations. Government examinations have built in checks and balances due to a command structure. Private examinations have no quality control. They can perform a bad examination and give us all a bad reputation.
- CVSA. It is not a recognized, reliable system. It does not meet the requirements as set out in the law for recording & gathering attachments to the person tested.
- No prosecution of the agencies & persons using voice stress.
- I am a new examiner. I haven't had any problems yet.
- Internet provides public with too much information regarding counter measures.
- The use of Computerized Voice Stress Analysis, which has been determined as an illegal instrument in our state, by law enforcement agencies.
- C.V.S.A. It is supposed to be illegal but the AG has refused to take action.
- Usage of C.V.S.A. in Alabama.
- We need to have a license for retired polygraph examiners who still have a desire to run polygraph now & then but not as an every day business.
- The usage of the voice stress analyzer.
- The growing use of polygraph especially in the area of testing sex offenders.
- Supporting the polygraph in court.
- 1. More use of polygraph in court cases. 2. Allow examiners to testify in court as experts.

9. What is the board doing to address the issues?

- Taking issue up with A.G. Office and Legislature.
- They have spoken with former the Attorney General, who has allowed the illegal use of voice stress analyzers in Alabama from what I have been told.
- (EPPA) Nothing they can do, it's a federal law.
- The Alabama Board provides exceptional training opportunities through the Alabama Polygraph Association.
- Research.
- It is my understanding that the Board is addressing the issue of V.S.A. with the Attorney General's Office.
- It is my understanding that the Alabama AG has been consulted about this, but no enforcement or other prohibitive actions.
- Alabama has a strong and progressive board that is diligently making sure examiners are licensed and trained.
- I think they are doing a great job.
- Everything it possibility can. Thus far, the Attorney has refused to enforce this law.
- Everything it should be doing.
- State legislature has banned them.
- They provide annual training, but if you are unable to make the training it is difficult to find other training in the surrounding states.
- 1. There is not a lot they can do about EPPA except express concerns to U. S. Reps & Senators. 2. They have been trying for the past 6 yrs to get the State Attorney General to act. According to EPAA, CVSA can not be used for lie detection.
- All complaints are investigated to everyone's satisfaction. Failure of attorney General & District Attorneys to enforce Alabama laws governing polygraph instruments vs. voice stress analysis machine.
- Continuous annual training, testing new examiners to insure integrity, look at new technologies, quarterly meetings and communicating with the American Polygraph Association. Researching the CVSA. Providing quality, professional and relevant training.
- Strongly supports and facilitate continuing education
- I'm not sure of anything that is being done. In all fairness, though, I don't live in the state anymore.
- Encouraging the AG's office to enforce state laws forbidding VSA's use.
- At our annual conference, training is provided that will allow us to improve these issues.
- It is my understanding that the Board has filed a complaint with the Attorney General's Office bur AG decline to prosecute.
- Currently planning adequate educational continuing educational experiences in all aspects of polygraph – Sex offender testing in particular.
- Fighting it through the Attorney General's Office.

## Licensee Questionnaire

- Everything that can be done. Law enforcement is ignoring the problem and even breaking the law by using voice stress analyzers.
- They got an Attorney General's opinion and he said that voice stress could continue to be used.
- I'm not sure.
- Nothing. Quality control should be an issue.
- The Board has asked the Attorney General's Office for an opinion about this matter.
- It appears that the only thing being done is talk. When I took my boards in 1993 this was the "topic of discussion" of the board meeting going on in another room. If we can't stop it then we need to regulate it and tax it.
- To my understanding, has brought the issue to the Attorney General and has hired counsel to formally address the issue (CVSA).
- Legal issue? Not Board issue.
- As much as they can within the scope of the current law and political climate in Ala. Supported by the Atty. Gen. To pursue and prosecute the agencies that are illegally using CVSA.
- Educating examiners with {????} to detect counter measures.
- Talking about it.
- Very little.
- Legal Action/letter campaign/legislation. Communication with AG's office.
- Not enough. Legislation needs to address this matter (Retired examiner's license). I am a retired law enforcement polygraph examiner but would still like to be licensed in this State.
- Ensuring that the examiners are qualified.
- Unknown

10. Please feel free to discuss any matters of concern to you not addressed by the questionnaire.

- I am happy with the Board & what it does.
- The rule that limits the number of tests that may be administered in one day.
- I have confidence in our Board & believe they function professionally & in the best interest of our examiners & citizens.
- Action to stop the Use of VSA's in Alabama – state of Virginia conducted lengthy study and reversed a previous law that allowed VSA's. This done by the legislature -

## Licensee Questionnaire

- The regulatory board is necessary – otherwise commercial examiners as well as police agencies would be using ineffective equipment and claiming that it is a “polygraph” test.
- The CEU’s should be by distance learning, i.e., the internet. Sometimes the cost of a weekly seminar, motel & travel cost are not feasible.
- Voice stress machines do not meet standards of the Alabama Polygraph Law. More enforcement is needed to prosecute violators.
- We need the Alabama Polygraph Examiner’s Board. It helps ensure integrity, credibility and honesty. It gives us more professional status
- I feel the State Polygraph Board exam should be updated. It is antiquated with questions pertaining to analog instruments that are not used by new examiners. Most makers have stopped production.
- I don’t recall being informed of any changes to the law since 1988.
- The Board should be give jurisdiction to stop voice stress analyzers completely.
- Licensing in Alabama is needed. The issue of voice stress analysis needs to be addressed.
- No changes needed.
- Though continuing education is necessary and has proven to be so, consider the requirement be every two years instead of annually OR reduce the number of hours required each year.
- A polygraph lic. is a very demanding lic. to obtain. I feel that there needs to be an inactive status. This would be for those who have a lic. but are not actively performing exams. It would be to allow a reduced lic. fee & no bond for a specific time 1 -3 yrs. Then in order to reactivate either several supervised exams & bond & lic. fees updated or in an alternative a refresher training at a recognized institution. This would allow an examiner to keep his/her lic while making a decision to pursue this career or give it up.
- Newly in the profession. Have not had very much dealing with the Board yet.
- The requirements of the Board for a police officer to go to school are 5 years as a investigator. That is too much. By that time they are moved to admin/management if they are any good.
- The Board asked for insurance but I do not have a company to insure. I cannot gat a license without insurance.
- I believe that the State of Alabama needs to keep the licensing law to maintain a high level of competency. It would be a big mistake to sunset the Board.
- Strengthen law against CVSA.



**Complainant Questionnaire**

Questionnaires were mailed to two individuals identified in board minutes. Neither responded.

1. Did the Board Polygraph of Examiners acknowledge the receipt of your complaint?

Yes \_\_\_\_\_ No \_\_\_\_\_

2. Did the board resolve your complaint in a timely manner?

Yes \_\_\_\_\_ No \_\_\_\_\_

3. Were you satisfied with the Board of Polygraph Examiners efforts to resolve your complaint?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. Was there anything else the board could have done to better resolve your complaint?

Yes \_\_\_\_\_ No \_\_\_\_\_



## **APPENDICES**

### **Statutory Authority**

#### **CHAPTER 25. POLYGRAPH EXAMINERS.**

### **REFERENCES**

#### **ADMINISTRATIVE CODE**

18 Ala. Admin. Code 740-X-1-.01 et seq., Board of Polygraph Examiners.

#### **ARTICLE 1. GENERAL PROVISIONS.**

### **REFERENCES**

#### **LIBRARY REFERENCES**

##### **Corpus Juris Secundum:**

23 C.J.S., Criminal Law § 967.

72 C.J.S., Polygraph, p § 224.

##### **§ 34-25-1. Short title.**

(Acts 1971, No. 2056, p. 3307, § 1.)

##### **§ 34-25-2. Definitions.**

respective meanings ascribed by this section:

(1) Board. The Polygraph Examiners Board.

(2) Chairman. That member of the Polygraph Examiners Board selected by the board to act as chairman.

(3) Internship. The study of polygraph examinations and of the administration of polygraph examinations by a trainee under the personal supervision and control of a polygraph examiner in accordance with a course of study prescribed by the board at the commencement of such internship.

(4) Person. Any natural person, firm, association, copartnership or corporation.

(5) Polygraph examiner. Any person who uses instrumentation described herein to test or question individuals for the purpose of detecting deception or verifying truth of statements, or any person who holds himself out to be a lie detector operator or examiner, or any person who purports to be able to detect deception or verify truth of statements through instrumentation or the use of a mechanical device.

(Acts 1971, No. 2056, p. 3307, § 2; Acts 1989, No. 89-269, p. 416, § 3.)

##### **§ 34-25-3. Instrumentation. [References](#)**

(a) Every polygraph examiner shall use an instrument which, as a minimum, records visually, permanently and simultaneously:

- (1) A subject's cardiovascular pattern;
  - (2) A subject's respiratory pattern; and
  - (3) A subject's galvanic skin response.
- (b) Patterns of other physiological changes in addition to subdivisions (1), (2) and (3) of subsection (a) may also be recorded.
- (c) The use of any instrument or device to detect or to verify truth of statements which does not meet these minimum instrumentation requirements is hereby prohibited.
- (Acts 1971, No. 2056, p. 3307, § 3; Acts 1983, No. 83-647, p. 1009, § 1.)

## REFERENCES

### LIBRARY REFERENCES

**American Digest System:**

Licenses 25.

**Corpus Juris Secundum:**

C.J.S. Licenses §§ 41, 45-46.

### RESEARCH REFERENCES

Encyclopedias

18 Am. Jur. Proof of Facts 3d 627, Violation of Employee Lie Detector Statute.

#### § 34-25-4. Polygraph Examiners Board generally. [Historical Notes](#) [References](#)

(a) There is established a Polygraph Examiners Board consisting of five voting members who are citizens of the United States and residents of the state for at least two years prior to appointment, all of whom shall have been engaged for a period of four consecutive years in their profession as polygraph examiners prior to appointment to the board and engaged at the time of appointment as an active polygraph examiner. No board members may be employed by the same person or agency. Three of the board members shall be qualified polygraph examiners of a governmental law enforcement agency, and two of the board members shall be qualified polygraph examiners and Alabama residents in the commercial field. Two advisory consultants shall be appointed to assist the board members. The board members and advisory consultants shall be appointed by the Governor of the State of Alabama for a term of four years. Any vacancy in an unexpired term shall be filled by appointment of the Governor, with the advice and consent of the Senate, for the unexpired term. In appointing members to the board, the Governor shall select those persons whose appointments, to the extent possible, ensure that the membership of the board is inclusive and reflects the racial, gender, urban/rural, and economic diversity of the state. On April 11, 1989, all terms of current board members and advisory consultants shall expire. The Governor shall appoint new board members and advisory consultants in accordance with this chapter. Immediately after May 12, 2003, the board shall notify the Governor of the vacancies on the board and the Governor shall immediately appoint qualified persons to fill those vacancies in accordance with this chapter.

(b) The board may fix the number of its full-time employees, who shall be employed pursuant to the Merit System. The board may engage temporary services for the investigation of applications or to investigate complaints filed against examiners. The board shall fix the compensation for any temporary employees. Temporary employees of the board are not covered under the Retirement Systems of Alabama. Any current full-time employee of the board shall be transferred to the Department of Public Safety on April 11, 1989. All benefits, including retirement, of any current full-time employee of the board who is transferred to the Department of Public Safety in accordance with this chapter, shall be retroactive back to the original date of employment upon payment of necessary contributions as required by the Employees' Retirement System.

(c) On or after April 11, 1989, and within 30 days of the appointments by the Governor, this new board shall meet and elect a chair from among the members of the board. The board shall meet at three-month intervals, or at any other time as necessary.

(d) The vote of a majority of the board members is sufficient for passage of any business or proposal which comes before the board.

(e) All documents, records, functions, and responsibilities currently housed at the Board of Polygraph

Examiners' Office shall be transferred to the Department of Public Safety in a section to be determined by the Director of the Department of Public Safety and under the supervision of the Department of Public Safety in conjunction with the board.  
(Acts 1971, No. 2056, p. 3307, § 4; Acts 1981, No. 81-222, p. 293, § 4; Acts 1989, No. 89-269, p. 416, § 3; Act 2003-61, p. 93, § 3.)

## HISTORICAL NOTES

### HISTORY

#### Amendment notes:

**The 2003 amendment**, effective May 12, 2003, in subsection (a) deleted "hereby" preceding "established", substituted "five" for "three", substituted "are" for "shall be", substituted "Three of the board members shall" for "Two of the board members must", substituted "two of the board members shall be qualified polygraph examiners and Alabama residents" for "one must be a qualified polygraph examiner, and an Alabama resident", added the seventh sentence, substituted "shall expire" for "will expire", and added the last sentence; in subsection (b) substituted "may" for "shall have the authority to" in two places, substituted "who shall" for "and such full-time employees shall", deleted "provisions of the" preceding "Merit System", substituted "fix the compensation for any" for "set the amount to be paid such", substituted "Temporary" for "The temporary", substituted "are not covered under the Retirement Systems of Alabama" for "shall not be covered under the State Retirement System", substituted "who is" for "that", deleted the comma following "Safety", and substituted "Employees' Retirement System" for "State Employees Retirement Systems"; in subsection (c) substituted "appointments by the Governor" for "Governor's appointment", substituted "shall meet and elect a chair from among the members of the board" for "will meet and elect a chairman from among its members"; and in subsection (e) deleted the comma following "functions", and substituted "shall" for "will".

#### Code Commissioner's Notes

Section 2 of Acts 1987, No. 87-159 provides: "The existence and functioning of the Polygraph Examiners Board, created pursuant to Section 34-25-4, specifically, and Sections 34-25-1 through 34-25-36, generally, of the Code of Alabama 1975, are hereby continued, and such code sections are hereby expressly continued."

Section 2 of Acts 1989, No. 89-269 provides: "The existence and functioning of the Polygraph Examiners Board, created and functioning pursuant to Sections 34-25-1 through 34-25-36, Code of Alabama 1975, is hereby continued, and said code sections are hereby expressly preserved."

Acts 1991, No. 91-164, § 2 provides that the Polygraph Examiners Board is continued. See also § 41-20-3.

Acts 1995, No. 95-278, provides in § 2: "The existence and functioning of the Polygraph Examiners Board, created and functioning pursuant to Sections 34-25-1 to 34-25-36, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved."



Act 99-90, § 2 provides: "The existence and functioning of the Polygraph Examiners Board, created and functioning pursuant to Sections 34-25-1 to 34-25-36, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved."

Act 2003-61, § 2, provides: "The existence and functioning of the Polygraph Examiners Board, created and functioning pursuant to Sections 34-25-1 to 34-25-36, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved."

## REFERENCES

### LIBRARY REFERENCES

#### American Digest System:

Licenses 21; States 45.

#### Corpus Juris Secundum:

C.J.S. Licenses §§ 37-38; States §§ 79-80, 82, 136.

**§ 34-25-5. Administration and enforcement of chapter; deposits and expenditures; per diem and travel expenses for board members; purchasing; board exempt from sales tax.** [Historical Notes](#)  
[References](#)

(a) The board shall issue regulations and forms consistent with this chapter for the administration and enforcement of this chapter.

(b) An order or a certified copy thereof, over board seal and purporting to be signed by the board members, shall be prima facie proof that the signatures are the genuine signatures of the board members and that the board members are fully qualified to act.

(c) On April 11, 1989, all moneys and appropriations credited to the Board of Polygraph Examiners under the provisions of Article 4 of Chapter 4, Title 41, shall be transferred by the State Treasurer to the charge and custody of the Board of Polygraph Examiners of the Alabama Department of Public Safety; and the board shall administer the fund as provided by law. The fund is hereby officially known as the Board of Polygraph Examiners Fund.

All fees collected under this chapter shall be paid to the Board of Polygraph Examiners Fund for the purpose of administering and enforcing this chapter and shall be deposited in the fund.

Warrants shall be issued by the Department of Finance, Office of the State Comptroller, for board expenses and operation provided that no funds shall be withdrawn except as budgeted and allotted according to Article 4 of Chapter 4 of Title 41 and only in the amounts as stipulated in the general appropriations bill.

(d) Board members and advisory consultants shall be paid one hundred dollars (\$100) per day plus mileage for attendance at regular or special board meetings, only for the actual days of meeting. The board may approve the payment for a board member when authorized by the board to perform certain other duties of the board when not in formal, regular, or special session.

(e) Employees shall be paid the same mileage expenses and travel allowance as provided for regular state employees.

(f) The board may determine all resources necessary for the operation of the board. Purchasing shall be in accordance with the state bid law.

(g) The board shall be exempt from payment of state sales tax.  
(Acts 1971, No. 2056, p. 3307, § 5; Acts 1981, No. 81-222, p. 293, § 4; Acts 1983, No. 83-647, p. 1009, § 1; Acts 1989, No. 89-269, p. 416, § 3; Acts 1995, No. 95-278, p. 500, § 3.)

## HISTORICAL NOTES

### HISTORY

#### Amendment notes:

**The 1995 amendment**, effective June 29, 1995, in subsection (a), inserted "and forms," deleted "the provisions of" preceding "this chapter," and deleted "and shall prescribe forms which shall be issued in connection therewith" following "of this chapter"; in subsection (c), substituted "board shall administer the fund" for "Board of Polygraph Examiners is hereby charged with administering said fund" in the first sentence of the first paragraph, in the second paragraph combined the former first and second sentences into one sentence by deleting "Such fees collected" preceding "and shall be deposited" and by inserting "and," and deleted "the provisions of" preceding "this chapter" in two places, and deleted "the provisions of" preceding "Article 4" in the third paragraph; inserted "and advisory consultants" in the first sentence of subsection (d); in subsection (f), substituted "may determine" for "shall have the authority and discretion to determine" in the first sentence, and substituted "Purchasing shall" for "Purchasing will" in the second sentence; and made nonsubstantive changes.

## REFERENCES

### LIBRARY REFERENCES

#### American Digest System:

Licenses  33.

**Corpus Juris Secundum:**  
C.J.S. Licenses § 71.



**§ 34-25-6. Admissibility of results as evidence.** [References](#) [Annotations](#)

Nothing in this chapter shall be construed as permitting the results of truth examinations or polygraph examinations to be introduced or admitted as evidence in a court of law.  
(Acts 1971, No. 2056, p. 3307, § 26.)

## REFERENCES

### LIBRARY REFERENCES

**American Digest System:**

Criminal Law  388.5; Evidence  150.

**Corpus Juris Secundum:**

C.J.S. Criminal Law § 760; Evidence §§ 216-226.

### RESEARCH REFERENCES

Treatises and Practice Aids

Trial Handbook for Alabama Lawyers § 14:19, Use of Lie Detector (Polygraph) Test.

## ANNOTATIONS

### CASENOTES

Generally 1 ..... enter p

#### 1. Generally

Even though the Legislature has provided that the results of a polygraph exam cannot be used in a court of law, the Supreme Court has said, where the rules of continuing employment specifically require an employee to submit to a polygraph exam, the results of that exam are admissible in the trial of an action for wrongful discharge. *Hood v. Alabama State Personnel Bd.*, 516 So.2d 680 (Ala.Civ.App.1987).

**§ 34-25-7. Injunctions; contempt of court.** [References](#)

If any person violates any provisions of this chapter, the board shall, upon direction of a majority of the board, in the name of the State of Alabama, apply in any circuit court of competent jurisdiction for an order enjoining such violation or an order enforcing compliance with this chapter. Upon the filing of a verified petition in the court, the court, or any judge thereof, if satisfied by affidavit or otherwise that the person has violated this chapter, may issue a temporary injunction, without notice or bond, enjoining such continued violation; and, if it is established that the person has violated or is violating this chapter, the court, or any judge thereof, may enter a judgment perpetually enjoining the violation or enforcing compliance with this chapter. In case of violation of any order or judgment issued under the provisions of this section, the court, or any judge thereof, may try and punish the offender for contempt of court. Proceedings under this section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this chapter.  
(Acts 1971, No. 2056, p. 3307, § 24; Acts 1989, No. 89-269, p. 416, § 3.)



## REFERENCES

### CROSS REFERENCES

As to rules of supreme court relative to injunctions, see A.R.C.P., Rule 65.

### LIBRARY REFERENCES

**American Digest System:**

Contempt 19; Injunction 89(5).

**Corpus Juris Secundum:**

C.J.S. Contempt § 14; Injunctions §§ 133-135.

**§ 34-25-8. Penalties. [References](#)**

Any person who violates any provision of this chapter or any person who falsely states or represents that he has been or is a polygraph examiner or trainee shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$100.00 nor more than \$1,000.00 or by imprisonment in the county jail for a term not to exceed six months, or both.  
(Acts 1971, No. 2056, p. 3307, § 25.)

## REFERENCES

### LIBRARY REFERENCES

**American Digest System:**

Licenses 40.

**Corpus Juris Secundum:**

C.J.S. Licenses §§ 82-83; Trading Stamps and Coupons § 6.



## ARTICLE 2. LICENSES.

### REFERENCES

#### ADMINISTRATIVE CODE

18 Ala. Admin. Code 740-X-3-.01 et seq., Board of Polygraph Examiners; Licenses.

#### **§ 34-25-20. Required; unauthorized practice. [References](#)**

(a) It shall be unlawful for any person, including a city, county or state employee, to administer polygraph examinations or attempt to hold himself out as a polygraph examiner without a license approved by the board and issued by the board.

(b) It shall be unlawful for any person, including city, county or state employees, to administer polygraph examinations utilizing any device or instrumentation which does not comply with Section 34-25-3.

(Acts 1971, No. 2056, p. 3307, § 6; Acts 1981, No. 81-222, p. 293, § 4.)

### REFERENCES

#### LIBRARY REFERENCES

##### **American Digest System:**

Licenses 11(1).

##### **Corpus Juris Secundum:**

C.J.S. Licenses § 34.

#### RESEARCH REFERENCES

Encyclopedias

18 Am. Jur. Proof of Facts 3d 627, Violation of Employee Lie Detector Statute.

#### **§ 34-25-21. Qualifications of examiner; bond. [References](#)**

(a) A person is qualified to receive a license as an examiner:

- (1) Who is at least 21 years of age;
- (2) Who is a citizen of the United States;
- (3) Who establishes that he is a person of honesty, truthfulness, integrity and moral fitness;
- (4) Who has not been convicted of a felony or a misdemeanor involving moral turpitude;
- (5) Who holds a baccalaureate degree from a regionally accredited college or university, and/or recognized by the board or, in lieu thereof, has five consecutive years of active investigative experience immediately preceding his application;

(6) Who is a graduate of a polygraph examiners' course approved by the board and has satisfactorily completed not less than six months of internship training; and

(7) Who, when required by this chapter, passed an examination conducted by the board, or under its supervision, to determine his competency to obtain a license to practice as an examiner.

(b) Prior to the issuance of a license, the applicant must furnish to the board evidence of a surety bond or insurance policy in an amount to be determined by the board. Said surety bond or insurance policy shall be on the condition that the obligor therein will pay to the extent of the face amount of such surety bond or insurance policy all judgments which may be recovered against the licensee by reason of any wrongful or illegal acts committed by him in the course of his examinations.


(Acts 1971, No. 2056, p. 3307, § 7; Acts 1981, No. 81-222, p. 293, § 4; Acts 1989, No. 89-269, p. 416, §

3.)

## REFERENCES

### LIBRARY REFERENCES

**American Digest System:**

Licenses 20.

**Corpus Juris Secundum:**

C.J.S. Licenses §§ 39-41.

#### **§ 34-25-22. Applications for original license. [References](#)**

Applications for original license shall be made to the board in writing under oath on forms prescribed by the board and shall be accompanied by the required fee, which is not refundable. Any such application shall require such information as in the judgment of the board will enable it to pass on the qualifications of the applicant for a license.

(Acts 1971, No. 2056, p. 3307, § 9; Acts 1989, No. 89-269, p. 416, § 3.)

## REFERENCES

### LIBRARY REFERENCES

**American Digest System:**

Licenses 22.

**Corpus Juris Secundum:**

C.J.S. Licenses § 43.

#### **§ 34-25-23. Nonresident applicants. [References](#)**

(a) Each nonresident applicant for an original license or a renewal license shall file with the board an irrevocable consent that actions against said applicant may be filed in any appropriate court of any county or municipality of this state in which the plaintiff resides or in which some part of the transaction occurred out of which the alleged cause of action arose and that process on any such action may be served on the applicant by leaving two copies thereof with the board. Such consent shall stipulate and agree that such service of process shall be taken and held to be valid and binding for all purposes. The board shall send forthwith one copy of the process to the applicant at the address shown on the records of the board by registered or certified mail.

(b) Nonresident applicants must satisfy the requirements of Section 34-25-21.

(Acts 1971, No. 2056, p. 3307, § 10; Acts 1989, No. 89-269, p. 416, § 3.)

## REFERENCES

### LIBRARY REFERENCES

**American Digest System:**

Licenses 20.

**Corpus Juris Secundum:**

C.J.S. Licenses §§ 39-41.

#### **§ 34-25-24. Applicant with out-of-state license. [References](#)**

An applicant who is a polygraph examiner licensed under the laws of another state or territory of the

United States may be issued a license without examination by the board, in its discretion, upon payment of the appropriate fees as provided in Section 34-25-26 and the production of satisfactory proof that:

- (1) He is at least 21 years of age;
  - (2) He is a citizen of the United States;
  - (3) He is of good moral character;
  - (4) The requirements for the licensing of polygraph examiners in such particular state or territory of the United States were at the date of the applicant's licensing therein substantially equivalent to the requirements now in force in this state;
  - (5) The applicant had lawfully engaged in the administration of polygraph examinations under the laws of such state or territory for at least two years prior to the application for license hereunder;
  - (6) Such other state or territory grants similar reciprocity to license holders of this state; and
  - (7) He has complied with Section 34-25-23.
- (Acts 1971, No. 2056, p. 3307, § 11; Acts 1981, No. 81-222, p. 293, § 4; Acts 1987, No. 87-159, p. 219, § 3; Acts 1989, No. 89-269, p. 416, § 3.)

## REFERENCES

### LIBRARY REFERENCES

**American Digest System:**

Licenses  20.

**Corpus Juris Secundum:**

C.J.S. Licenses §§ 39-41.

#### **§ 34-25-25. Internship license.** [References](#)

(a) Upon approval by the board, the board shall issue an internship license to a trainee provided he applies for such license and pays the required fee within 10 days prior to the commencement of his internship. The application shall contain such information as may be required by the board.

(b) An internship license shall be valid for the term of six months from the date of issue. Such license may be extended or renewed for any term not to exceed six months upon good cause shown to the board.


(c) A trainee shall not be entitled to hold an internship license after the expiration of the original six-month period and six-month extension, if such extension is granted by the board, until 12 months after the date of expiration of the last internship license held by said trainee.

(Acts 1971, No. 2056, p. 3307, § 12; Acts 1989, No. 89-269, p. 416, § 3.)

## REFERENCES

### LIBRARY REFERENCES

**American Digest System:**

Licenses  25, 36.

**Corpus Juris Secundum:**

C.J.S. Licenses §§ 41, 45-48.

#### **§ 34-25-26. Examination and license fees.** [Historical Notes](#) [References](#)

The fee requirements of this chapter shall apply to all polygraph examiners, including those employed by governmental agencies, and to those who engage in polygraph examinations on any commercial basis. The fees to be paid, effective October 1, 1991, are as follows:

- (1) By an applicant for an examination to determine his fitness to receive a polygraph examiner's license is \$150.00, which is not to be credited as payment against the license fee and is not refundable;
- (2) For the issuance of an original polygraph examiner's license the fee is \$100.00;
- (3) For the issuance of an internship license the fee is \$100.00;

- (4) For the issuance of a duplicate polygraph examiner's license the fee is \$20.00;
  - (5) For the issuance of a polygraph examiner's renewal license the fee is \$100.00;
  - (6) For the extension or renewal of an internship license the fee is \$100.00; and
  - (7) For the issuance of a duplicate internship license the fee is \$20.00.
- (Acts 1983, No. 83-647, p. 1009, § 1; Acts 1991, No. 91-164, p. 219, § 3.)

## HISTORICAL NOTES

### HISTORY


#### **Amendment notes:**

**The 1991 amendment**, effective June 27, 1991, deleted the former first sentence providing for exemptions from fee requirements for examiners employed by governmental agencies, in the present first sentence substituted "shall apply to all polygraph examiners" for "do apply to polygraph examiners" and inserted "and to those," substituted the present language of the second sentence preceding the colon for "The fee to be paid, effective October 1, 1983," substituted "\$100.00" for "\$150.00" in subdivision (2), and substituted "\$100.00" for "\$125.00" in subdivision (5).

## REFERENCES

### LIBRARY REFERENCES

#### **American Digest System:**

Licenses  20, 29.

#### **Corpus Juris Secundum:**

C.J.S. Licenses §§ 39-41, 66.

#### **§ 34-25-27. Display of license; signature thereon. [References](#)**

A license or duplicate license must be prominently displayed at the place of business of the polygraph examiner or at the place of internship. Each license shall be signed by the board members and shall be issued under the seal of the board.

(Acts 1971, No. 2056, p. 3307, § 14.)

## REFERENCES

### LIBRARY REFERENCES

#### **American Digest System:**

Licenses  25.

#### **Corpus Juris Secundum:**

C.J.S. Licenses §§ 41, 45-46.

#### **§ 34-25-28. Change of business address. [References](#)**

Notice in writing shall be given to the board by the licensed examiner of any change of principal business location within 30 days of the time he changes the location. A change of business location without notification to the board shall automatically suspend the license therefor issued.

(Acts 1971, No. 2056, p. 3307, § 15; Acts 1989, No. 89-269, p. 416, § 3.)

## REFERENCES

### LIBRARY REFERENCES

**American Digest System:**

Licenses  25.

**Corpus Juris Secundum:**

C.J.S. Licenses §§ 41, 45-46.

**§ 34-25-29. Termination and renewal of examiner's license.** [Historical Notes](#) [References](#)

(a)(1) Each polygraph examiner's license shall be issued for the term of one year and shall, unless suspended or revoked, be renewed annually as prescribed by the board. A polygraph examiner whose license has expired may at any time within two months after the expiration obtain a renewal license, without examination or late penalty fee, by submitting a renewal application to the board and satisfying subdivisions (2), (3), and (4) of subsection (a) of Section 34-25-21. A polygraph examiner whose license has expired, and who does not apply for renewal within two months following expiration, may at any time within three to six months after the expiration obtain a renewal license, without examination, by paying a late penalty fee as prescribed by the board, submitting a renewal application to the board, and satisfying subdivisions (2), (3), and (4) of subsection (a) of Section 34-25-21.

(2) However, any polygraph examiner whose license expired while he or she was in the federal service on active duty with the Armed Forces of the United States, or the National Guard called into service or training, or in training or education under the supervision of the United States preliminary to induction into the military service, may have his or her license renewed, without examination or late penalty fee, if within six months after termination of such service, training, or education, except under conditions other than honorable, he or she furnishes the board with an affidavit to the effect that he or she has been so engaged and that his or her service, training, or other education has been terminated. Subdivisions (2), (3), and (4) of subsection (a) of Section 34-25-21 shall also be satisfied.

(b) The board shall adopt a program of continuing education for its licensees not later than October 1, 1993, and after that date no licensee shall have his or her active license renewed unless, in addition to any other requirements of this chapter, the minimum continuing annual education requirements are met. It is further provided that this continuing education program may not include testing or examination of the licensees in any manner.

(Acts 1971, No. 2056, p. 3307, § 16; Acts 1981, No. 81-222, p. 293, § 4; Acts 1983, No. 83-647, p. 1009, § 1; Acts 1991, No. 91-164, p. 219, § 3; Act 2003-61, p. 93, § 3.)

## HISTORICAL NOTES

### HISTORY

**Amendment notes:**

**The 1991 amendment**, effective June 27, 1991, added the subsection designation (a), and added subsection (b).

**The 2003 amendment**, effective May 12, 2003, in subsection (a) designated the first two sentences as subdivision (1) and designated the final two sentences as subdivision (2), in subdivision (1) substituted "two" for "six", substituted "obtain a renewal license, without examination or late penalty fee, by submitting" for "thereof obtain a renewal license without examination, by making", substituted "to the board and" for "therefor and" and added the last sentence, and in subdivision (2) inserted "or she" in three places, substituted "Armed Forces" for "armed forces", substituted "National Guard" for "national guard", inserted "or her" in two places, inserted "or late penalty fee,", substituted "conditions" for "condition", substituted "or other" for "and/or other", deleted "so" preceding "terminated", substituted "shall" for "must", and made nonsubstantive changes; in subsection (b) substituted "that" for "said", inserted "or her", substituted "this" for "the", and substituted "may" for "herein required shall".

## REFERENCES

### LIBRARY REFERENCES

**American Digest System:**

Licenses  22.

**Corpus Juris Secundum:**

C.J.S. Licenses § 43.

#### **§ 34-25-30. License required to maintain action. [References](#)**

No action or counterclaim shall be maintained by any person in any court in this state with respect to any agreement or service for which a license is required by this chapter or to recover such services for which a license is required by this chapter without alleging and proving that such person had a valid license at the time of making such agreement or performing such services.

(Acts 1971, No. 2056, p. 3307, § 17.)

## REFERENCES

### LIBRARY REFERENCES

**American Digest System:**

Licenses  39.39.

**Corpus Juris Secundum:**

C.J.S. Licenses §§ 74, 76.

#### **§ 34-25-31. License required to maintain action. Repealed by Acts 1981, No. 81-222, p. 293, § 5, effective April 9, 1981. § 34-25-32. Refusal, suspension, reprimand, probation or revocation -- Grounds. [References](#)**

The board may refuse to issue a license, may issue oral or written reprimands to an examiner, may place an examiner on probation, or may suspend or revoke a license on any one or more of the following grounds:

- (1) Failing to inform a subject to be examined that his participation in the examination is voluntary;
- (2) Failing to inform a subject to be examined as to the nature of the examination;
- (3) Failing to inform the subject of the results of the examination if so requested;
- (4) Willful disregard or violation of this chapter or of any regulation or rule issued pursuant thereto, including, but not limited to, willfully making a false report concerning an examination for polygraph examination purposes;
- (5) Willfully aiding or abetting another in the violation of this chapter or any regulation or rule issued pursuant thereto;
- (6) Having demonstrated unworthiness or incompetency to act as a polygraph examiner as defined by this chapter;
- (7) Making any willful misrepresentation or false promises or causing to be permitted any false or misleading advertisement for the purpose of directly obtaining business or trainees;
- (8) Allowing one's license under this chapter to be used by any unlicensed person in violation of the provisions of this chapter;
- (9) If the holder of any license has been adjudged guilty of the commission of a felony or a misdemeanor involving moral turpitude;
- (10) Where the license holder has been adjudged a habitual drunkard or mentally incompetent as provided in the probate code;

(11) Material misstatement in the application for original license or in the application of any renewal license under this chapter; or


(12) Failing, within a reasonable time, to provide information requested by the board as the result of a formal complaint to the board which indicates a violation of this chapter.

(Acts 1971, No. 2056, p. 3307, § 18; Acts 1989, No. 89-269, p. 416, § 3.)

## REFERENCES

### LIBRARY REFERENCES

**American Digest System:**

Licenses  22, 38.

**Corpus Juris Secundum:**

C.J.S. Licenses §§ 43, 48, 50-63.

**§ 34-25-33. Refusal, suspension, reprimand, probation or revocation -- Violation by one examiner or trainee not to affect employer. [References](#)**

Any unlawful act or violation of any of the provisions of this chapter on the part of any polygraph examiner or trainee shall not be cause for revocation of the license of any other polygraph examiner for whom the offending examiner or trainee may have been employed, unless it shall appear to the satisfaction of the board that the polygraph examiner-employer has willfully or negligently aided or abetted the illegal actions or activities of the offending polygraph examiner or trainee.

(Acts 1971, No. 2056, p. 3307, § 19.)

## REFERENCES

### LIBRARY REFERENCES

**American Digest System:**

Licenses  38.

**Corpus Juris Secundum:**

C.J.S. Licenses §§ 48, 50-63.

**§ 34-25-34. Refusal, suspension, reprimand, probation or revocation -- Hearing. [References](#)**

(a) Where there is cause to refuse an application or to suspend or revoke the license of any polygraph examiner, the board shall, not less than 30 days before refusal, suspension or revocation action is taken, notify such person in writing, in person or by registered or certified mail at the last address supplied to the board by such person, of such impending refusal, suspension or revocation, the reasons therefor and of his right to an administrative hearing for the purpose of determining whether or not the evidence is sufficient to warrant the refusal, suspension or revocation action proposed to be taken by the board. If, within 20 days after the personal service of such notice or such notice has been deposited in the United States mail, such person has not made a written request to the board for this administrative hearing, the board is authorized to suspend or revoke the polygraph examiner's license of such person without a hearing. Upon receipt by the board of such written request of such person within 20 days as set out above, an opportunity for an administrative hearing shall be afforded as early as is practicable. In no case shall the hearing be held less than 10 days after written notification thereof, including a copy of the charges, shall have been given the person by personal service or by registered or certified mail sent to the last address supplied to the board by the applicant or licensee. The administrative hearing in such cases shall be before the board.

(b) The board shall conduct the administrative hearing and it is authorized to administer oaths and issue subpoenas for attendance of witnesses and the production of relevant books, papers, documents, etc. On the basis of the evidence submitted at the hearing, the board shall take whatever action it deems

necessary in refusing the application or suspending or revoking the license.  
(Acts 1971, No. 2056, p. 3307, § 21.)

## REFERENCES

### CROSS REFERENCES

As to rules of supreme court relative to service of process, see A.R.C.P., Rule 4 et seq.

### LIBRARY REFERENCES

#### American Digest System:

Licenses  22, 38.

#### Corpus Juris Secundum:

C.J.S. Licenses §§ 43, 48, 50-63.

### **§ 34-25-35. Refusal, suspension, reprimand, probation or revocation -- Judicial review. [References](#)**


Any person dissatisfied with the action of the board in refusing his application or suspending or revoking his license, or any other action of the board, may appeal the action of the board by filing a petition within 30 days thereafter in the circuit court in the county where the person resides or in the Circuit Court of Montgomery County, Alabama, and the court is vested with jurisdiction and it shall be the duty of the court to set the matter for hearing upon 10 days' written notice to the board and the attorney representing the board. The court in which the petition of appeal is filed shall determine whether or not a cancellation or suspension of a license shall be abated until the hearing shall have been consummated with final judgment thereon or whether any other action of the board should be suspended pending hearing, and enter its order accordingly, which shall be operative when served upon the board, and the court shall provide the attorney representing the board with a copy of the petition and order. The board shall be represented in such appeals by the district attorney of the county or the Attorney General, or any of their assistants. The board shall initially determine all facts, but the court upon appeal shall set aside the determination of the board if the board's determination:

- (1) Is not based upon substantial evidence upon the entire record;
  - (2) Is arbitrary or capricious;
  - (3) Is in violation of statutory requirement; or
  - (4) Was made without affording the licensee or applicant due process of law.
- (Acts 1971, No. 2056, p. 3307, § 22.)

## REFERENCES

### LIBRARY REFERENCES

#### American Digest System:

Licenses  22, 38.

#### Corpus Juris Secundum:

C.J.S. Licenses §§ 43, 48, 50-63.

### **§ 34-25-36. Refusal, suspension, reprimand, probation or revocation -- Surrender of license.**

#### [References](#)

Upon the revocation or suspension of any license, the licensee shall forthwith surrender the license or licenses to the board; failure of a licensee to do so shall be a violation of this chapter and, upon conviction, shall be subject to the penalties set forth in this chapter. At any time after the suspension or revocation of any license, the board shall restore it to the former licensee upon the written recommendations of the board.  
(Acts 1971, No. 2056, p. 3307, § 23; Acts 1989, No. 89-269, p. 416, § 3.)



## REFERENCES

### LIBRARY REFERENCES

**American Digest System:**

Licenses  38.

**Corpus Juris Secundum:**

C.J.S. Licenses §§ 48, 50-63.

## Smart Operations Plan

State of Alabama EBO Form No. 4b	<b>AGENCY NAME: <u>POLYGRAPH EXAMINERS BOARD</u></b> <b>FY 2006 SMART OPERATIONS PLAN</b>	Agency No. <u>344</u>	Page <u>1</u> of <u>1</u>	
		ACTUAL FY04	BUDGET FY05	BUDGET FY06
<b>MISSION</b>	To examine & register polygraph examiners. Enforce the rules governing the practice of polygraph Code of AL 34-25-1 through 35-25-36			
<b>VISION</b> (Optional)	Polygraph to be recognized as an effective means of protecting the citizens of Alabama			
<b>VALUES</b> (Optional)	This agency is committed to excellence, values integrity and maintains the highest standard of conduct			
<b>CRITICAL ISSUES</b>				
(Optional)				
Internal				
External				
<b>PROGRAM</b>	Professional and Occupational licensing and regulation program (\$ in _____)	18,348	25,000	25,000
<b>ACTIVITY</b>	Licensing and regulation of polygraph examiners (\$ in _____)			
<b>MISSION</b>	To examine & register polygraph examiners. Enforce the rules governing the practice of polygraph			
<b>GOAL(S)</b>	To ensure that only qualified polygraph examiners enter the profession To maintain essential information on all polygraph examiners practicing in Alabama To minimize complaints against polygraph examiners To promote awareness of the beneficial aspects of polygraph to the citizens of Alabama			
<b>WORKLOAD</b>	Approximately 110 licensed polygraph examiners in Alabama			
<b>CRITICAL ISSUES</b>				
Internal				
External	Illegal use of computerized voice stress analyzers in Alabama			
<b>OBJECTIVES</b>				
Spending	Maintain level spending (\$ in _____)	18,348	25,000	25,000
Staffing	1 part time retired state employee (\$ in _____)			
Efficiency		( PTE) 1.0	1.0	1.0
Quality				
<b>STRATEGIES</b>	Establish complaint review committee of 2 Board members and Board investigator.			

# Quarterly Performance Reports

Smart Quarterly Performance Report												
Fiscal Year: 2006												
Agency: 344 Polygraph Examiners, Board of												
Org:												
Program: 653 PRO AND OCCU LICENSING AND REG												
Activity:												
Performance Measures												
Workload/Cost Factor		Performance Indicator	First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
			Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
WC1: Applications Processed		No. Per Source	2	3	3	10	2	0	3	0	10	0
WC2: Licenses Issued		By Source & Status Lk	30	27	10	13	5	0	65	0	110	0
WC3: Examinations Administered		Licensing Examinations	4	0	4	16	4	0	3	0	15	0
WC4: Complaints Received/Investigations		Complaint	1	0	0	0	1	0	0	0	2	0
WC5: Licenses Suspended/Revoked		Code Violations	2	0	1	0	2	0	1	0	6	0
WC6: Administrative Office Work		Administrative	250	319	250	340	250	0	250	0	1,000	0
Spending		Performance Indicator	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
SP1: Salaries		FTE & Award	1,750	2,263	1,750	3,471.78	1,750	0	1,750	0	7,000	0
SP2: Travel Expenses		Board Meetings	375	444	375	1,250.56	375	0	375	0	1,500	0
SP3: Office Supplies, Postage, Telephone		Office Maintenance	475	568	475	82.37	475	0	475	0	1,900	0
SP4: Office Repairs/Rentals		Equip Maint, Training Fund	175	160	175	310	175	0	175	0	700	0
SP5: Contracts		Ins, Legal, Equip Maint.	3,000	0	3,000	51	3,000	0	3,000	0	12,000	0
SP6: Other Equipment		Other Equipment	1,900	0	0	0	0	0	0	0	1,900	0
Staffing		Performance Indicator	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
ST1: Part Time Employees		FTE	1	0	1	1	1	0	1	0	1	0

## Board Members & Advisors



### **Board Members**

Gerone Grant, Chairman  
Terry M. Scott, Vice Chairman  
Jimmie L. Flanagan, Secretary/Treasurer  
Claiborne J. Poche  
Gregory D. Turley

STATE OF ALABAMA

### **POLYGRAPH EXAMINERS BOARD**

Physical Address: 301 S. Ripley Street  
Mailing Address: P.O. Box 1511

**MONTGOMERY, ALABAMA 36102-1511**  
**334-353-1881**

May 3, 2006

Mr. Calvin Cooper  
Examiners of Public Accounts  
P. O. Box 302251  
Montgomery, AL 36130-2251

Dear Mr. Cooper

Lister below are the current Polygraph Examiners Board members, consultants and employee with their position, address and date their term expires/expired.

<u>BOARD MEMBER</u>	<u>ADDRESS</u>	<u>TERM EXPIRES</u>
Captain Gerone Grant	Montgomery, AL	Nov. 30, 2009
Deputy Chief Jimmie Flanagan	Elberta, AL	Nov. 30, 2005
Chief Gregory Turley	Pell City AL	Nov. 25, 2007
Mr. Claiborne Poche	Daphne, AL	Nov. 25, 2007

### CONSULTANTS

Mr. Todd Wheelles	Birmingham, AL	Nov. 30, 2009
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### OFFICIAL

Mrs. Joan Beck Administrative Secretary	Montgomery, AL	Indefinite
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Sincerely,  
**Alabama Polygraph Examiners Board**

**Gerone Grant**  
Chairman

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